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2004 Regular Session 4lr0186 CF 4lr0193

By: The President (By Request - Administration) and Senators Astle, Brinkley, Colburn, Dyson, Greenip, Hafer, Haines, Harris, Hogan, Jacobs, Middleton, Mooney, Munson, Pipkin, and Stoltzfus Stoltzfus, and Kramer

Introduced and read first time: January 23, 2004

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2004

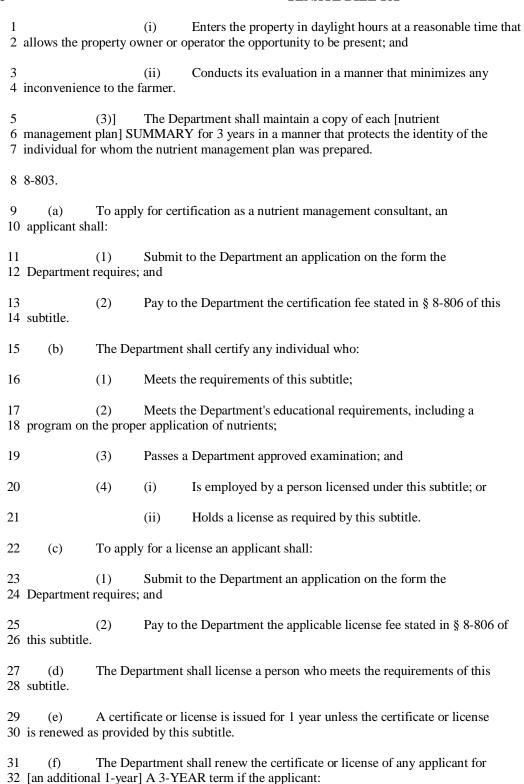
CHAPTER\_\_\_\_

### 1 AN ACT concerning

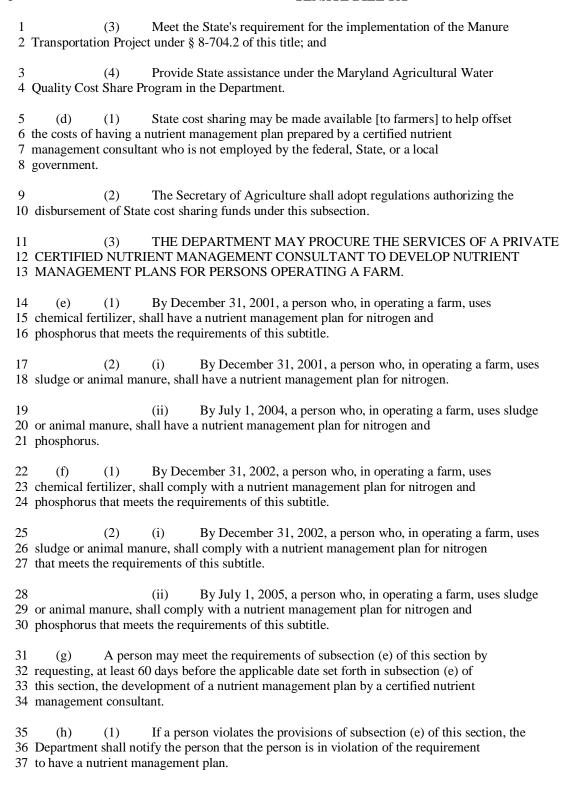
#### 2 Water Quality Improvement Act - Nutrient Management

- FOR the purpose of adding a certain alternative to requirements for nutrient 3
- management plans; altering requirements relating to filings concerning 4
- nutrient management plans; eliminating the requirement that a certain farm 5
- 6 owner or operator grant the Department of Agriculture the right of entry for a
- 7 certain purpose; altering the term and fee for the renewal of certain licenses and
- 8 certificates; authorizing the Department to issue certain certificates for persons
- 9 operating a farm under certain circumstances; authorizing the Department to
- 10 procure the services of private certified nutrient management consultants to 11 develop nutrient management plans; authorizing the Department to review
- 12
- certain plans and records under certain circumstances; providing for certain site
- 13 visits under certain circumstances; and generally relating to nutrient
- 14 management.
- 15 BY repealing and reenacting, with amendments,
- Article Agriculture 16
- 17 Section 8-801.1, 8-803, 8-803.1, and 8-806
- Annotated Code of Maryland 18
- 19 (1999 Replacement Volume and 2003 Supplement)
- 20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 21 MARYLAND, That the Laws of Maryland read as follows:

1				Article - Agriculture
2	8-801.1.			
3	(a) (1) factors including:	Each nu	trient ma	nagement plan shall be developed considering
5		(i)	Levels o	of bioavailable nitrogen and phosphorus in the soil;
6 7	materials to be applie	(ii) d;	Levels o	f bioavailable nitrogen and phosphorus in all fertilizer
	the expected crop yiel plan, as determined b			ount of nitrogen and phosphorus necessary to achieve is the subject of the nutrient management
11 12	crop; or		1.	The field's actual yield record and soil productivity for that
		p is unav	2. ailable, r	If information concerning actual yield record and soil elevant information concerning similar fields
16		(iv)	Soil eroo	dibility and nutrient retention capacity;
17 18	Department and the U	(v) Jniversity	1. y of Mary	The best reasonable scientific methods accepted by the rland Cooperative Extension Service; OR
				SCIENTIFICALLY VALIDATED DATA FOR THE MANAGEMENT PLAN AS DEFINED BY THE nd
22		(vi)	Existing	best management practices.
	( )			nagement plan shall provide flexibility for aired by conditions beyond the control of the
26 27	(b) (1) filed AND UPDATE			ARY OF EACH nutrient management plan shall be ment[:
28		(i)	When it	is developed; and
29 30	DEPARTMENT RE	(ii) QUIRES		ne it is updated] AT A TIME AND IN A FORM THAT THE ULATION.
	(2) or operator to the De compliance with the	partment	of a right	ne plan shall include a grant by the property owner of entry on the property to evaluate Department:



1 2 requires;	(1)	Submits a renewal application on the form that the Department				
3 4 subtitle;	(2)	Pays to the Department the applicable fee stated in § 8-806 of this				
5	(3)	Complies with applicable continuing education requirements;				
6 7 and	(4)	Complies with applicable record keeping and reporting requirements;				
8	(5)	Otherwise is entitled to be certified or licensed.				
9 (G) THE DEPARTMENT MAY ISSUE A FARM OPERATOR'S PLAN DEVELOPMENT 10 CERTIFICATE TO A PERSON OPERATING A FARM FOR THE DEVELOPMENT OF THAT 11 PERSON'S OWN NUTRIENT MANAGEMENT PLAN. THE CERTIFICATE IS VALID 12 PROVIDED THE PERSON OPERATING THE FARM:						
13 14 SUBTITLE	(1)	HAS PAID THE ONE-TIME FEE PROVIDED IN § 8-806 OF THIS				
15 16 DEPARTM	(2) IENT;	HAS PASSED AN EXAMINATION AS DETERMINED BY THE				
17 18 REQUIRE	(3) MENTS;	COMPLIES WITH APPLICABLE CONTINUING EDUCATION				
19 20 REQUIRE	(4) MENTS;	COMPLIES WITH APPLICABLE RECORD KEEPING AND REPORTING AND				
21	(5)	OTHERWISE IS ENTITLED TO BE CERTIFIED.				
22 8-803.1.						
23 (a) 24 a calendar y		section, "gross income" means the actual income that is received in results directly from the farm or agricultural use of the land.				
25 (b)	This see	ction does not apply to:				
26	(1)	An agricultural operation with less than \$2,500 in gross income; or				
27 28 1,000 poun	(2) ds of live	A livestock operation with less than eight animal units defined as animal weight per animal unit.				
29 (c) 30 to:	The Go	vernor shall provide sufficient funding in each fiscal year's budget				
31	(1)	Assist in the development of nutrient management plans;				
32 33 section;	(2)	Meet the technical assistance and evaluation requirements of this				



	(2) nutrient management exceed \$250.			e period of time, if the person fails to have a subject to an administrative penalty not to
4 5	(i) (1) of any rule, regulation			plates any provision of subsection (f) of this section or or issued under this section is subject to:
6		(i)	For a fir	st violation, a warning; and
			in writing	cond or subsequent violation, after an opportunity for a g by the person accused of a violation, an osed by the Department of Agriculture.
10 11	(2) subsection shall be:	The pen	alty impo	osed on a person under paragraph (1)(ii) of this
12 13	farmer or operator pe	(i) r year; an	-	00 for each violation, but not exceeding \$2,000 per
14		(ii)	Assessed	d with consideration given to:
				The willfulness of the violation, the extent to which the but uncorrected by the violator, and the extent ble care;
18			2.	Any actual harm to the environment or to human health;
19 20	controlling, reducing,	, or elimi	3. nating the	The available technology and economic reasonableness of e violation; and
21 22	recurrent pattern of the	ne same o	4. or similar	The extent to which the current violation is part of a type of violation committed by the violator.
23 24	` /	(i) s is a sepa		as provided in subparagraph (ii) of this paragraph, each ation under this subsection.
25 26	takes reasonable step	(ii) s to corre		enalties do not continue to accrue as long as the farmer plation.
27 28				osed under this subsection is payable to the Cost Share Program within the Department.
29	(j) If a pers	on violate	es any pr	ovision of this section, the Department may:
30 31	(1) for the project that is			nt of cost share funds under Subtitle 7 of this title
32 33	(2) title.	Deny or	restrict f	uture cost share payments under Subtitle 7 of this

1 2	(k) this section.	(1)	The Department shall determine compliance with the provisions of
			THE DEPARTMENT MAY REVIEW THE NUTRIENT MANAGEMENT DS RELATING TO THE PLAN AT A LOCATION AGREED TO BY THE D THE PERSON OPERATING THE FARM.
8 9	SHALL BE THE FARM	LIMITEI IS IN CO	IN CONDUCTING A SITE VISIT AND REVIEWING THE NUTRIENT AN AND RELATED RECORDS, THE DEPARTMENT'S EVALUATION O SOLELY TO DETERMINING WHETHER THE PERSON OPERATING DMPLIANCE WITH THE PROVISIONS OF THIS SECTION OR THE PLEMENTING THIS SECTION.
11		(4)	IN CONDUCTING A SITE VISIT, THE DEPARTMENT SHALL:
12 13	HOURS AD	OVANCE	(I) PROVIDE THE PERSON OPERATING THE FARM AT LEAST 48 NOTICE;
14 15		ATOR TO	(II) ENTER THE PROPERTY AT A REASONABLE TIME THAT ALLOWS O BE PRESENT; AND
16 17		NVENIE	(III) CONDUCT THE EVALUATION IN A MANNER THAT MINIMIZES NCE TO THE PERSON OPERATING THE FARM.
20	DEPARTM MANAGEN	MENT PL	IF A PERSON OPERATING A FARM FAILS TO COOPERATE WITH THE EQUEST TO CONDUCT A SITE VISIT AND REVIEW OF A NUTRIENT AN AND RECORDS RELATING TO THE PLAN, THAT PERSON IS ECTIONS (I) AND (J) OF THIS SECTION.
22	8-806.		
23 24	(a) following fe		for a government agency, the Department shall charge the this subtitle:
25		(1)	Certificate (nutrient management consultant) \$50;
26		(2)	License (individual or sole proprietorship) \$50;
27		(3)	License (corporation or partnership) \$100; [and]
28		(4)	Renewal [\$50] \$150; AND
29		(5)	CERTIFICATE (FARM OPERATOR'S PLAN DEVELOPMENT) \$20
30 31	` '		partment shall charge an applicant for the full cost of any training artment under this subtitle.
32 33	(c) Fund of the		eys collected under this subtitle shall be deposited in the General

- 1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take 2 effect October 1, 2004.